

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

-----X
UNITED STATES OF AMERICA, : Case No. 5:20-cr-00262
: Cleveland, Ohio
Plaintiff, :
v. : Thursday, May 6, 2021
: 3:36 p.m.
:
CHRISTIAN FERGUSON, : **VOLUME 3 - JURY TRIAL**
: (*Pages 363 - 369*)
Defendant. :
-----X

TRANSCRIPT OF JURY TRIAL PROCEEDINGS

BEFORE THE HONORABLE SOLOMON OLIVER, JR.

SENIOR UNITED STATES DISTRICT JUDGE

Court Reporter: Donnalee Cotone, RMR, CRR, CRC
Realtime Systems Administrator
United States District Court
801 West Superior Avenue
Court Reporters 7-189
Cleveland, Ohio 44113
216-357-7078
donnalee_cotone@ohnd.uscourts.gov

Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

1 APPEARANCES:

2

3 For the Government: **DUNCAN T. BROWN**
4 **JEROME J. TERESINSKI**
5 Assistant United States Attorney
6 801 West Superior Avenue
7 Suite 400
8 Cleveland, Ohio 44113
9 216-622-3600
10 duncan.brown@usdoj.gov
11 Jerome.Teresinski2@Usdoj.Gov
12

13

14 For the Defendant: **JOHN J. RICOTTA, ESQ.**
15 910 IMG Center
16 1360 East Ninth Street
17 Cleveland, Ohio 44114
18 216-241-0715
19 jjricotta@aol.com

20

21 ALSO PRESENT: Kurt Dirker, FBI Special Agent

22

23

24

25

1	I N D E X
2	PAGE
3	APPEARANCES..... 364
4	INSTRUCTION TO JURY BY THE COURT..... 366
5	CERTIFICATE..... 369
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

1 AFTERNOON SESSION, THURSDAY, MAY 6, 2021

2 (Proceedings reconvened at 3:36 p.m.)

3 - - -

4 THE COURT: Good afternoon.

15:47:06 5 JURORS AND COUNSEL EN MASSE: Good afternoon.

6 THE COURT: All right. I know, jurors, that
7 you've been hard at work since yesterday afternoon, and I
8 know you've been working hard today. I was glad we were
9 able to get you some lunch. It may not be the gourmet style
15:47:23 10 that some of you are used to, but at least it serves the
11 purpose. And I was also happy that they could get you
12 something for breakfast because that's what we normally do.
13 And I told you before that because the cafeteria was shut
14 down here, we were kind of stymied in that regard.

15:47:42 15 But I got your note. You know, we got your three
16 notes yesterday. It took us a little time to get back to
17 you because what I do when I get a note is I get in touch
18 with the lawyers, and we discuss it, and then I determine
19 what I should send you back -- send back to you. So that's
15:47:59 20 why I took a little bit yesterday.

21 Then I received your note this afternoon, and it took
22 a little time to bring you out because I had to get the
23 lawyers in and assemble them and the defendant and make sure
24 everybody was here. And so we've been able to do that.

15:48:16 25 Your last note said, "We were unable to come to a

1 decision," and, obviously, I respect and appreciate that.

2 We do have an instruction we give sometimes when we
3 get a note such as yours, and I've talked to the lawyers and
4 decided to give you further instruction. And so I'll do
15:48:41 5 that.

6 I want you to pay close attention to the instruction,
7 all of it, but I think that it's important that I give this
8 instruction to you now.

9 You -- the case was about -- well some portion of
15:48:58 10 three days, but really about two days or so. You've been
11 deliberating for, oh, a little more than a day. Not a real
12 long time, but it's been some time, given the fact the case
13 was only three days long.

14 So we're going to go at it again for a bit here, and
15:49:21 15 I'll give you this verbatim because this is what the lawyers
16 and I agreed upon.

17 So, members of the jury, I am going to ask you to
18 return to the jury room and deliberate further. I'll add
19 parenthetically, as I said before, this is not unusual. I
15:49:43 20 realize that you're having some difficulty reaching a
21 unanimous agreement. That is, as I said, not unusual. And
22 sometimes, after furtherer discussion, jurors are able to
23 work out their differences and agree.

24 Please keep in mind how very important it is for you
15:49:58 25 to reach unanimous agreement. If you cannot agree, and if

1 the case is tried again, there is no reason to believe that
2 any new evidence will be presented or that the next twelve
3 jurors will be any more conscientious and impartial than you
4 are.

15:50:15 5 So let me remind you that it is your duty as jurors to
6 talk with each other about the case -- I know you've been
7 doing that -- to listen carefully and respectfully to each
8 other's views and to keep an open mind as you listen to what
9 your fellow jurors have to say.

15:50:31 10 And let me remind you that it is your duty to make
11 every reasonable effort you can to reach unanimous
12 agreement. Each of you, whether you are in the majority or
13 minority, ought to seriously reconsider your position in
14 light of the fact that other jurors, who are just as
15 conscientious and impartial as you are, have come to a
16 different conclusion.

17 Those of you who believe that the Government has
18 proved the defendant guilty beyond a reasonable doubt should
19 stop, ask yourselves if the evidence is really convincing
15:51:00 20 enough, given that other members of the jury are not
21 convinced.

22 And those of you who believe that the Government has
23 not proved the defendant beyond a reasonable doubt should
24 stop and ask ourselves if the doubt you have is a reasonable
15:51:11 25 one, given that other members of the jury do not share your

1 doubt.

2 None of you should hesitate to change your mind if,
3 after reconsidering things, you are convinced that other
4 jurors are right and your original position was wrong.

15:51:23 5 But remember this: Do not ever change your mind just
6 because other jurors see things differently or just to get
7 the case over with. As I told you before, in the end, your
8 vote must be exactly that - your own vote. As important as
9 it is for you to reach unanimous agreement, it is just as
15:51:45 10 important that you do so honestly and in good conscience.

11 What I've said is not meant to rush or pressure you
12 into agreeing on a verdict. Take as much time as you need
13 to discuss things. There's no hurry.

14 So I am going to ask you now to return to the jury
15 room and resume your deliberations.

16 You may do so now.

17 MR. BROWN: Thank you, Your Honor.

18 MR. RICOTTA: Thank you, Your Honor.

19 THE COURT: All right.

15:53:35 20 (The Jury retired to continue deliberations.)

21 (Proceedings in recess at 3:53 p.m.)

22 **C E R T I F I C A T E**

23 I certify that the foregoing is a correct transcript
24 from the record of proceedings in the above-entitled matter.

25 */s/ Donnalee Cotone* 22nd of December, 2021
DONNALEE COTONE, RMR, CRR, CRC